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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198699
Party	Defendant Dittmeyer, Terrie A
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Date	04/01/2011
Attachments	ANSWER TO NOTICE OF OPPOSITION-1.pdf (6 pages)(61779 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EXCELLED SHEEPSKIN & LEATHER COAT CORP.

Opposer

v.

TERRIE A. DITTMAYER

Applicant

OPPOSITION NUMBER: 91198699

ANSWER TO NOTICE OF OPPOSITION

1. Opposer is the owner of all rights, title and interest in and to a family of marks containing the word ROGUE for clothing ("Opposer's Marks"). **ANSWER: WITHOUT KNOWLEDGE AND THEREFORE DENY**

2. Opposer's Marks have become well know through extensive use and advertising, and they have become highly valuable symbols of Opposer's goodwill. **ANSWER: WITHOUT KNOWLEDGE AND THEREFORE DENY**

3. Since long prior to any first use date or filing date that Applicant may allege, Opposer has been using the mark ROGUE in connection with the advertising and sale of clothing. **ANSWER: WITHOUT KNOWLEDGE AND THEREFORE DENY**

4. The Patent and Trademark Office has recognized Opposer's exclusive right to use its marks by issuing the following registrations:

Reg. No. 3346559, ROGUE, issued December 4, 2007

Registration No. 2790074, ROGUE LEATHER BY REILLY OLMES, issued December 9, 2003

Reg. No 2815985, REILLY OLMES ROGUE LEATHER, dated February 24, 2004.

ANSWER: WITHOUT KNOWLEDGE AND THEREFORE DENY

5. Opposer's registrations are valid and they provide prima facie evidence of Opposer's ownership of, and exclusive right to use, Opposer's Marks in commerce. Registration No. 2790074 is incontestable and it provides conclusive evidence of Opposer's ownership of the mark, and of its exclusive right to use the mark in commerce in connection with the goods listed therein. **ANSWER: WITHOUT KNOWLEDGE AND**

THEREFORE DENY

6. Opposer has developed a well known business reputation throughout the United States and Opposer's Marks have been and continue to be widely used and publicized.

ANSWER: WITHOUT KNOWLEDGE AND THEREFORE DENY

7. Notwithstanding Opposer's prior established rights in its Marks, **ANSWER: WITHOUT KNOWLEDGE THEREFORE DENY** Applicant filed the above referenced application for registration of the mark ROGUE WOLF for various goods, including athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms in International Class 25. **ANSWER: ADMIT**

8. Opposer's Marks have been used continuously on or in connection with its

goods in interstate commerce since long prior to Applicant's filing date. **ANSWER:**

WITHOUT KNOWLEDGE THEREFORE DENY

9. Upon information and belief, Applicant has made no use of its alleged mark in commerce prior to the filing date of its application. **ANSWER: ADMIT**

LIKELIHOOD OF CONFUSION

10. The mark that Applicant seeks to register is identical to or so closely resembles Opposer's Marks that the use and registration thereof is likely to cause confusion, mistake and deception as to the source or origin of Applicant's goods and will thereby injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Marks.

ANSWER: DENY

11. The goods of Applicant are so closely related to the goods of Opposer that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's goods are those of Opposer or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage. **ANSWER: DENY**

12. Likelihood of confusion is further enhanced by the fact that Applicant intends to offer its products to the same prospective customers who purchase Opposer's clothing products and through the same trade channels in which Opposer's products are sold.

ANSWER: WITHOUT KNOWLEDGE AND THEREFORE DENY

13. On information and belief, Applicant adopted its alleged mark with an intent to cause confusion by trading on the goodwill associated with Opposer's Marks, and therefore

it may be presumed that customers will in fact be confused. **ANSWER: DENY**

14. Applicant is not affiliated or connected with, nor is it approved, endorsed or sponsored by, Opposer. **ANSWER: ADMIT**

15. Similarly, Opposer has not approved any goods sold or intended for sale by Applicant under its alleged mark, nor has Opposer granted Applicant permission to use said mark alone or in combination with any design. **ANSWER: ADMIT**

DECEPTION/FALSE SUGGESTION OF CONNECTION

16. Applicant's alleged mark so closely resembles Opposer's Marks that it is likely to cause deception in violation of Section 2(a) of the Trade mark Act because the mark misdescribes the nature or origin of the goods. Purchasers are likely to believe that the misdescription actually describes the nature or origin of the goods, which is likely to materially alter purchasers' decisions to acquire Applicant's goods. **ANSWER: DENY**

17. Applicant's alleged mark so closely resembles Opposer's Marks that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged mark points uniquely to Opposer, and purchasers will thus assume that goods sold under Applicant's alleged mark are connected with Opposer.

ANSWER: DENY

18. If Applicant's alleged mark is used on goods of the type described in its application, Applicant's alleged mark will cause purchasers to refrain from purchasing Opposer's authorized goods based on the mistaken assumption that Opposer is endorsing,

attempting to promote, or encouraging the sale of Applicant's goods by permitting Applicant to use said mark. **ANSWER: DENY**

19. Applicant's mark is deceptive in that it falsely suggest a connection with, or approval by, Opposer. **ANSWER: DENY**

20. Use and registration by Applicant of its alleged mark will deprive Opposer of the ability to protect its reputation, persona and goodwill. **ANSWER: DENY**

21. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will attribute those defects to Opposer and this will injure Opposer's reputation and goodwill.
ANSWER: DENY

22. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark and registration should be refused. **ANSWER: DENY**

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CERTIFICATE OF SERVICE

It is hereby certified the ANSWER TO NOTICE OF OPPOSITION is being served upon
Opposer Michael A. Grow, Aren't Fox LLP, 1050 Connecticut Avenue, NW, Washington,
DC 20036, UNITED STATES by first class mail postage prepaid, on April 1, 2011.

Signature /Terrie A Dittmeyer/

Name: Terrie A. Dittmeyer

Date: 04/01/2011